



May 23, 2000

Ms. Regina T. Grimes  
Office of the General Counsel  
Texas Department of Criminal Justice  
P.O. Box 13401  
Austin, Texas 78711

OR2000-2032

Dear Ms. Grimes:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 135959.

The Texas Department of Criminal Justice (the "department") received a request for information regarding an incident that occurred on December 1, 1999 at the Texson facility in Beaumont, Texas. You claim that the requested information is excepted from disclosure under sections 552.101, 552.103, 552.108, and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 excepts from required public disclosure information that is considered confidential by law, either constitutional, statutory, or by judicial decision. This section encompasses information protected by other statutes. You claim that the responsive documents are made confidential by section 508.313 of the Government Code, which accords confidentiality to the records of the Board of Pardons and Paroles. Open Records Decision No. 190 at 2 (1978); *see also* Attorney General Opinion H-427 (1974); Open Records Decision No. 33 (1974). Section 508.313 provides:

All information obtained and maintained, including a victim protest letter or other correspondence, a victim impact statement, a list of inmates eligible for release on parole, and an arrest record of an inmate, is confidential and privileged if the information relates to:

- (1) an inmate of the institutional division subject to release on parole, release to mandatory supervision, or executive clemency;
- (2) a releasee; or

(3) a person directly identified in any proposed plan of release for an inmate.

You inform us that the submitted information is “included in release plan records obtained and maintained by the Board of Pardons and Paroles which relate to . . . ‘a releasee[.]’” After reviewing your arguments and the submitted information, we agree that the information is made confidential by section 508.313 and may only be released in accordance with that statute. Because we find that none of the release provisions of section 508.313 apply to this information, we find that the submitted information must be withheld under section 552.101 of the Government Code.<sup>1</sup>

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body’s intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general’s Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental

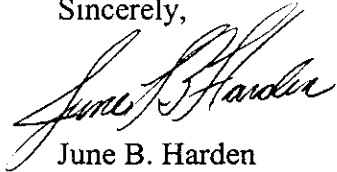
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<sup>1</sup>Since section 552.101 is dispositive, we need not address your additional arguments against disclosure.

body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in cursive script, appearing to read "June B. Harden".

June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/KSK/ljp

Ref: ID# 135959

Encl. Submitted documents

cc: Mr. Michael Mitchell  
2036 58<sup>th</sup> Street  
Port Arthur, Texas 77640  
(w/o enclosures)